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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of the Cable Television)
Consumer Protection and Competition)
Act of 1992)

MM Docket No. 92-259 /

Broadcast Signal Carriage Issues)

To The Commission

Comments of KTFH-TV, Conroe, Texas

KTFH-TV, a full power commercial UHF television station licensed to Conroe, Texas, submits the following comments to the Commission's, Notice of Proposed Rule Making.

KTFH-TV signed on the air June 16, 1989 and serves the Houston, Texas area. The station broadcasts over eighteen hours per day, seven days per week of Spanish language programming from Mexico serving Houston's large Hispanic community who make up 23 percent (1990 census) of the total population.

KTFH-TV serves the Houston area with much needed Spanish language public service programming. The station broadcasts thirty hours a week of ECO news. ECO is a twenty four hour news service similar to CNN with correspondents all over the world and provides live coverage of world events including live carriage of U.S. Presidential news conferences which are simultaneously translated into Spanish.

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KTFH-TV also broadcasts approximately six hours per week of locally produced Hispanic programming. The airtime for this programming has been brokered by the station at very low rates to local Houston producers. This has allowed these producers the opportunity to reach the Hispanic community with news and entertainment from around the Houston area.

KTFH-TV's ability to serve the public has been severely harmed by its lack of cable carriage. Houston has a cable penetration of 50 percent and KTFH-TV is carried in less than 5 percent of those cabled homes, essentially locking the station out of nearly half of all of the television homes located within its coverage area.

Naturally, the lack of carriage severely inhibits the station's ability to garner ratings and attract advertisers. Even smaller local advertisers, most of whom are small Hispanic businesses (the station's "bread and butter") who are not "ratings orientated" advertisers are reluctant to advertise with KTFH-TV because they know the station is not carried on cable and cannot be seen by half of the viewing public.

KTFH-TV strongly urges the Commission not to allow cable operators an extended period of time with which to comply with the must-carry provisions of the Cable Television Consumer Protection and Competition Act of 1992.

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Any delay in the implementation of the new must-carry rules will cause economic harm to many television stations like KTFH-TV who have been struggling to compete without cable carriage in markets where the cable penetration is 50 percent or greater. The national cable penetration average is now over 60 percent.

KTFH-TV would like to point out to the commission that absent must-carry regulation over the past seven years (since its abolishment in 1985), many new television stations have come on the air throughout the United States and have been denied cable carriage and many other television stations have been dropped from carriage over the same period.

In response to the Commission's comments under Retransmission Consent section C. Implementing Retransmission Consent paragraph 48., KTFH-TV suggests that it is not necessary to allow cable systems any amount of time to come into compliance with the new must-carry rules in situations where there are no outstanding market definition and low power television carriage issues or other pertinent carriage issues dependent on the rules adopted by the Commission. KTFH-TV believes the must-carry provisions as written in the Cable Act are clear and straight forward and that any outstanding carriage issues that may be dependent upon the rules adopted by the Commission will only effect a small percentage of cable systems.

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The cable industry has been directly involved with the development of the Cable Act through Congress and will be participating in the Commission's Implementation Rule Making Procedures and therefore we believe that the Commission can safely assume that cable systems are fully familiar with every aspect of the must-carry provisions as passed by Congress on October 5, 1992.

Furthermore, once the must-carry provisions go into effect on April 4, 1993 after the Commission has completed its Rule Makings it will have been a full six month period since the enactment of the Cable Act allowing plenty of time for cable systems to become familiar with and come into compliance with the must-carry provisions.

With respect to the Commission's comments under must-carry regulations Section C. Provisions Applicable to Commercial and Noncommercial Stations Subsection 2. Procedural Requirements paragraph 39. Remedies, KTFH-TV concurs with the Commission's proposal that a commercial station being denied carriage should be permitted to file a compliant immediately with the Commission and not have to wait for the expiration of the 30-day period.

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KTFH-TV further observes that the Commission has 120 days after the date a complaint is filed to make a determination of whether or not a cable operator has met its must-carry obligations. If a commercial station being denied carriage is required to wait 30-days for a response from a cable system before it can file a complaint with the Commission it may be as long as 5 months before such station could obtain relief. KTFH-TV suggest that commercial television stations be treated no differently than NCE station in this respect.

With respect to paragraph 40. under the same Procedural Requirements subsection noted above in response to the Commissions comments regarding the payment of fees for the filing of requests for special relief, KTFH-TV suggests that such fees should be waived. We would like to point out to the Commission that a commercial station being denied cable carriage is already suffering economically from the lack of carriage and the payment of fees would only cause further harm to the station.

With respect to the Commission's comments concerning the application of Section 76.7 (the special relief rule). KTFH-TV asks the Commission to adopt whatever procedures are necessary to expedite complaints that are filed with the Commission and to not allow respondents to use such procedures as delaying tactics to prevent the Commission from promptly deciding such complaints.

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With respect to Retransmission Consent Section D. Retransmission Consent and Section 614 paragraph 53. and 54. Retransmission Consent and the Must-carry Signal Complement. KTFH-TV agrees with the Commission's tentative interpretation that retransmission consent channels maybe used by cable operators to meet their Section 614 signal carriage requirements however, we strongly believe there should be some exceptions.

For example in cases where the number of local commercial television stations exceeds the maximum number of signals a cable system is required to carry, KTFH-TV believes the Commission should adopt a rule preventing the carriage of a duplicating network affiliate on a cable system to count towards the 614 signal carriage requirements if such station paid for its carriage under a retransmission agreement and its carriage prevented the carriage of a local qualifying independent station under the Section 614 must-carry provisions.

Such a rule would foster greater program diversity and prevent cable operators from carrying duplicating affiliated stations which they may not normally find attractive.

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It appears that there is nothing to prevent a television station from paying for carriage under retransmission consent. We believe there may be situations where a duplicating network affiliated station may be willing to pay for cable carriage thus creating an unfair advantage over an independent station seeking carriage under Section 614.

Comments of KTFH-TV

Conclusion

We respectfully request that the Commission consider the above comments made by KTFH-TV to it's Notice of Proposed Rule Making in the matter of Implementation of the Cable Television Consumer Protection and Competition Act of 1992.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy L. Crosby", with a long, sweeping horizontal stroke extending to the right.

Timothy L. Crosby
Vice-President
San Jacinto Television Corp.
Licensee of KTFH-TV
Conroe, Texas